

## **REMARKS**

Claims 1-6, 9, and 59-71 are pending in this application and have been rejected by the Examiner. Claims 1 and 66 are amended with this response. No new matter is added. Reconsideration and withdrawal of the outstanding rejections in light of the remarks that follow is respectfully requested.

### **I.      *Claim Objections***

Claim 66 was objected to for an informality, and has been corrected as suggested by the Examiner. Accordingly, withdrawal of the objection to claim 66 is respectfully requested.

### **II.     *Claim Rejections Under 35 U.S.C. § 112***

Claims 1-6, 9 and 59-71 have been rejected under 35 U.S.C. § 112, second paragraph, for being indefinite over the recitation of the term “non-evanescent wave light” in claim 1. Applicants respectfully disagree with this rejection, and maintain, as explained in Applicants’ response of April 19, 2004, that the term “non-evanescent wave light” is clear and unambiguous. Given the disclosure in the specification, one of skill in the art can clearly understand what is covered by the claim. Nevertheless, in order to expedite prosecution, claim 1 is amended herein to replace the phrase “non-evanescent wave light” with phrase “white light, with the proviso that the white light is not evanescent wave light.” Support for illumination with white light may be found, for example, on page 5, line 24 of the original specification.

Claims 1-6, 9 and 59-71 have also been rejected under 35 U.S.C. §112, second paragraph, for being indefinite over the recitation of the phrase “detecting light scattered by said one or more scattered-light detectable particles under said conditions which indicates the presence of said allele in said sample” in claim 1. With this response, claim 1 has been

amended to recite "...under said conditions as indicative of the presence of said allele" as suggested by the Examiner.

Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1-6, 9 and 59-71 under 35 U.S.C. §112.

### ***Conclusion***

In light of the forgoing amendments, Applicants respectfully contend that the claims are in condition for allowance, and request withdrawal of the rejections of claims 1-6, 9, and 59-71. Applicants respectfully request that the above amendments and remarks be entered and made of record in the file history of the subject application.

It is not believed that any fees are required beyond those that are otherwise provided for in documents accompanying this paper. However, should the Patent Office determine otherwise, please charge the required fee to Jones Day deposit account no. 50-3013, referencing Docket No. 11032-017-999 (CAM No. 107168-999016).

Respectfully submitted,

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